

SEP 30 2003

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In The Matter Of An Investigation Pursuant To KRS 278.260 Of The : Case No. 2003-00334
Earnings Sharing Mechanism Tariff Of Kentucky Utilities Company :

and

In The Matter Of An Investigation Pursuant To KRS 278.260 Of The : Case No. 2003-00335
Earnings Sharing Mechanism Tariff Of Louisville Gas & Electric Company :

**FIRST SET OF DATA REQUESTS OF
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.
TO
BARRINGTON-WELLESLEY GROUP**

Dated: September 29, 2003

DEFINITIONS

1. "Document" means the original and all copies (regardless of origin and whether or not including additional writing thereon or attached thereto) of memoranda, reports, books, manuals, instructions, directives, records, forms, notes, letters, notices, confirmations, telegrams, pamphlets, notations of any sort concerning conversations, telephone calls, meetings or other communications, bulletins, transcripts, diaries, analyses, summaries, correspondence investigations, questionnaires, surveys, worksheets, and all drafts, preliminary versions, alterations, modifications, revisions, changes, amendments and written comments concerning the foregoing, in whatever form, stored or contained in or on whatever medium, including computerized memory or magnetic media.
2. "Study" means any written, recorded, transcribed, taped, filmed, or graphic matter, however produced or reproduced, either formally or informally, a particular issue or situation, in whatever detail, whether or not the consideration of the issue or situation is in a preliminary stage, and whether or not the consideration was discontinued prior to completion.
3. "Person" means any natural person, corporation, professional corporation, partnership, association, joint venture, proprietorship, firm, or the other business enterprise or legal entity.
4. A request to identify a natural person means to state his or her full name and residence address, his or her present last known position and business affiliation at the time in question.
5. A request to identify a document means to state the date or dates, author or originator, subject matter, all addressees and recipients, type of document (e.g., letter, memorandum, telegram, chart, etc.), number or code number thereof or other means of identifying it, and its present location and custodian. If any such document was, but is no longer in the Company's possession or subject to its control, state what disposition was made of it.
6. A request to identify a person other than a natural person means to state its full name, the address of its principal office, and the type of entity.
7. "And" and "or" should be considered to be both conjunctive and disjunctive, unless specifically stated otherwise.
8. "Each" and "any" should be considered to be both singular and plural, unless specifically stated otherwise.
9. Words in the past tense should be considered to include the present, and words in the present tense include the past, unless specifically stated otherwise.
10. "You" or "your" means the person whose filed testimony is the subject of these interrogatories and, to the extent relevant and necessary to provide full and complete answers to any request, "you" or "your" may be deemed to include any person with information relevant to any interrogatory who is or was employed by or otherwise associated with the witness or who assisted, in any way, in the preparation of the witness' testimony.

11. “BWG” means Barrington-Wellesley Group and/or any of their officers, directors, employees, or agents who may have knowledge of the particular matter addressed.

INSTRUCTIONS

1. If any matter is evidenced by, referenced to, reflected by, represented by, or recorded in any document, please identify and produce for discovery and inspection each such document.
2. These interrogatories are continuing in nature, and information which the responding party later becomes aware of, or has access to, and which is responsive to any request is to be made available to Kentucky Industrial Utility Customers. Any studies, documents, or other subject matter not yet completed that will be relied upon during the course of this case should be so identified and provided as soon as they are completed. The Respondent is obliged to change, supplement and correct all answers to interrogatories to conform to available information, including such information as it first becomes available to the Respondent after the answers hereto are served.
3. Unless otherwise expressly provided, each interrogatory should be construed independently and not with reference to any other interrogatory herein for purpose of limitation.
4. The answers provided should first restate the question asked and also identify the person(s) supplying the information.
5. Please answer each designated part of each information request separately. If you do not have complete information with respect to any interrogatory, so state and give as much information as you do have with respect to the matter inquired about, and identify each person whom you believe may have additional information with respect thereto.
6. In the case of multiple witnesses, each interrogatory should be considered to apply to each witness who will testify to the information requested. Where copies of testimony, transcripts or depositions are requested, each witness should respond individually to the information request.
7. The interrogatories are to be answered under oath by the witness(es) responsible for the answer.
8. Responses to requests for revenue, expense and rate base data should provide data on the basis of Total company as well as Intrastate data, unless otherwise requested.

**KIUC FIRST SET OF DATA REQUESTS
TO BARRINGTON-WELLESLEY GROUP
PSC CASE NO. 2003-00334 and 2003-00335**

1. Please state BWG's recommendation regarding whether the Commission should retain the ESM, either as is or modified as proposed in the Final Report, or terminate it.
2. Refer to page I-10 of the Final Report and the statement that "Current projections indicate that the Companies will remain in an under-earning position for the next several years." Please identify and describe the support for this statement. Provide a copy of all documentation relied upon for this statement, regardless of whether provided by the Companies, obtained from other sources, or developed by BWG.
3. Please provide copies of all written discovery requests from BWG to LG&E/KU and the Companies' answers.
4. Please describe and provide a copy of all financial projections obtained by BWG from LG&E, KU, LEC on behalf of LG&E and KU, or from other sources. Provide all related documentation, including assumptions, data, computations, and electronic spreadsheets with formulas intact. If no such financial projections were obtained by BWG, please indicate whether they were requested. Provide a copy of all such requests and the Companies' responses.
5. Refer to page I-9 through I-10 entitled Comparison to Traditional Ratemaking. There is no discussion regarding customer class allocation and rate design issues. Does BWG agree that the structure of the ESM perpetuates and perhaps compounds existing differences between class rates of return? Please explain your response.
6. Refer to page I-9 through I-10 entitled Comparison to Traditional Ratemaking. There is no discussion regarding customer class allocation and rate design issues. Does BWG agree that the ability of the Commission to consider class allocation and rate design issues is an advantage of COS traditional ratemaking compared to the ESM? Please explain your response.
7. Refer to Exhibit II-2 and the detailed work task under ESM structure listed as "Compare results under the ESM to results that would have occurred under traditional regulation." Please provide all quantitative analyses performed or obtained by BWG pursuant to this objective. Also provide copies of all source documents relied upon for these analyses, if any. If no such analyses were performed, please so state and explain why such analyses were not performed.
8. Please describe and provide copies of all quantitative analyses performed or otherwise obtained by BWG comparing the continued operation of the ESM, either as is or modified as proposed in the Final Report, to the termination of it.
9. In the event that the Commission continues the ESM, either as is or modified as proposed in the Final Report, is it BWG's understanding that the ESM is a substitute for the traditional COS ratemaking and that the Companies are precluded from filing a traditional COS base rate case for rates to be effective during the term of the new ESM? This question does not seek a legal opinion, but rather BWG's understanding as to the status of the ESM during its term. Please provide a copy of all support relied upon for the response to this question.

10. In the event that the Commission continues the ESM, either as is or modified as proposed in the Final Report, is it BWG's understanding that the ESM is a substitute for the traditional COS ratemaking and that the Commission on its own motion or by show cause order is precluded from setting base rates pursuant to a traditional COS base rate case for rates to be effective during the term of the new ESM? This question does not seek a legal opinion, but rather BWG's understanding as to the status of the ESM during its term. Please provide a copy of all support relied upon for the response to this question.
11. In the event that the Commission continues the ESM, either as is or modified as proposed in the Final Report, is it BWG's understanding that the ESM is a substitute for the traditional COS ratemaking and that ratepayers are precluded from seeking a reduction in base rates pursuant to a traditional COS base rate case for rates to be effective during the term of the new ESM? This question does not seek a legal opinion, but rather BWG's understanding as to the status of the ESM during its term. Please provide a copy of all support relied upon for the response to this question.
12. Refer to page V-6 and the bullet on Large Capital Additions of the Final Report. Please describe the basis for the statement that "The ESM was never expected to yield acceptable results in the event the company made a large capital addition . . . such an addition likely would result in one or more rate filings, and possibly the suspension of the ESM for some period of time." Provide copies of all source documents and/or interview notes/transcripts relied upon for this statement.
13. If the Companies are not bound by the ESM during its term and can unilaterally file for COS base rate increases, then describe the value that the ESM offers ratepayers.
14. Please identify and describe each new "large capital addition" planned by each of the Companies during the next ten years of which BWG is aware.
15. Refer to pages I-11 through I-13 of the Final Report. Please provide the data utilized for each of the graphs on these pages, including the dollars, customers, and sales for each year.
16. Refer to Exhibits I-5 and I-6. Please provide the tables separately for LG&E and KU.
17. Refer to the Findings on affiliate transactions on page I-18 of the Final Report. Please reconcile the statement that "documents are in place . . . that adequately protect the regulated companies' interests from a legal and accounting perspective" with the concerns regarding "opportunities for conflicts of interest," "a lack of organizational separation," and "significant reductions in resource commitments" of Internal Audit.
18. Refer to the Findings on affiliate transactions on page I-18 of the Final Report, which state that "no abuses of the LG&E/KU affiliate relationships were found during this study of the ESM." Describe specifically all audit steps undertaken to search for abuses and/or cross-subsidies between regulated and unregulated activities.
19. Refer to the Findings on management practices on page I-19 of the Final Report and the finding that "improvement initiatives have been successful in containing direct expenses for operating and maintaining the utilities through 2002. However, they have not fully offset cost increases in other areas." Please provide for each of the Companies the non-fuel O&M expense by year 1997-2002 by FERC account summed to functional area (production, transmission, distribution, A&G, etc.) and summed in total. Also provide any analyses of the total non-fuel O&M expense performed by BWG, but not presented in the Final Report, such as average annual growth rates

on total non-fuel O&M dollars or average annual growth rates on total non-fuel O&M per customer.

20. Refer to the Findings on management practices on page I-19 of the Final Report and the finding that “executive short-term compensation program is not adequately in alignment with the ESM program” and the recommendation on page I-22 to “[d]irectly link executive short-term incentive program to the ESM . . . to the two utility operating companies meeting and exceeding their allowed rates of return.” Please explain why linking compensation to reductions in O&M expense would not be more appropriate since that seems to be a factor that is more controllable by the Companies’ executives than revenues, depreciation, or other taxes, all of which are other factors that affect the earned rate of return but seem to be less controllable than O&M expense.
21. Refer to the Findings on ESM structure on pages I-19 through I-20 of the Final Report. These findings do not address the sharing percentages or the midpoint return on common equity around which the deadband was developed. Please describe the review conducted by BWG of the current sharing percentages and the return on common equity, if any.
22. To the extent that the Commission determines it to be appropriate to continue the ESM for the Companies, does BWG recommend that the Commission reconsider the sharing percentages? Please explain your response.
23. To the extent that the Commission determines it to be appropriate to continue the ESM for the Companies, does BWG recommend that the Commission reconsider the midpoint return on common equity in order to reflect current market conditions? Please explain your response.
24. Refer to the statement in the recommendations on page V-8 that states “[there are a number of ways that a multi-year ESM could be structured,” which is followed by “one example.” Please describe all structures for a multi-year ESM that BWG considered.
25. If a multi-year ESM is adopted, would a COS traditional rate case be permitted during the ESM process? Please describe the process and procedure for handling a COS rate case during a multi-year ESM.
26. Refer to the statement in the recommendations on page V-8 that states “ESM should not preclude the Companies from petitioning for, nor preclude the Commission from allowing, the deferral of costs incurred as a result of extraordinary events.” What should be the threshold, dollars or otherwise, that the Commission should employ for this purpose? Describe whether this recommended threshold represents a change from the threshold currently employed by the Commission. Please provide a copy of all source documents relied upon by BWG to obtain its understanding of the threshold currently employed by the Commission.
27. Refer to the statement in the recommendations on page V-8 that states “ESM should not preclude the Companies from petitioning for, nor preclude the Commission from allowing, the deferral of costs incurred as a result of extraordinary events.” Should the ESM preclude other parties from petitioning for, or preclude the Commission from allowing, the deferral of revenues or cost savings as a result of extraordinary events? Please explain your response. In addition, identify and describe the basis for any thresholds that BWG believes should be applied in such circumstances.
28. If some form of ESM is retained, should the return-on-equity continue to be calculated on average capitalization?

29. Does BWG have an opinion as to whether the Commission should follow through with its observation made in the Order approving the VDT Global Settlement (Audit I-6) and open a formal investigation to determine whether increased costs for employees or contractors should be included in ESM calculations?
30. Does BWG have an opinion as to whether the margin from brokered sales should continue to be excluded from the ESM? Is BWG aware whether expenses associated with brokered sales (i.e., employee costs for those who make the brokered sales) are included in the ESM?
31. In communications between the Companies and Staff regarding issues related to the ESM, does BWG believe that ratepayer representatives such as KIUC and the Attorney General should be excluded?
32. If an ESM is continued, then under what circumstances should the Company, ratepayers or the Commission be entitled to propose a change to the after-tax return-on-equity component currently set at 11.5%? Please describe the process for changing the after-tax return-on-equity.

Respectfully submitted,



Michael L. Kurtz, Esq.

BOEHM, KURTZ & LOWRY

36 East Seventh Street, Suite 2110

Cincinnati, Ohio 45202

Ph: (513) 421-2255 Fax: (513) 421-2764

E-Mail: mkurtzlaw@aol.com

**COUNSEL FOR KENTUCKY INDUSTRIAL
UTILITY CUSTOMERS, INC.**

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